

## Performance Evaluation & Research Division (PERD)

### PERD's Objective:

The objective of this report was to review the current methods by which the OCME is retaining remains and any legal authority it may have to plan for their disposition.

### Key Recommendations:

*The Legislature should amend West Virginia Code to authorize the Department of Health and Human Resources to establish methods for the disposition of unidentified and unclaimed remains including those that are cremated.*

*The Department of Health and Human Resources should review and update §64-84-1 et seq. of the Code of State Rules to ensure that it aligns with West Virginia State Code.*

*The Office of the Chief Medical Examiner should develop policies and procedures enumerating evidentiary standards for the retention of decedent remains.*

November 2021

## Performance Review:

Department of Health and Human Resources, Office of the Chief Medical Examiner

### What Did PERD Find?

The Legislative Auditor concludes that the OCME lacks adequate statutory authority to arrange for the final disposition of decedent remains in its long-term custody. Current operating procedure is to store remains with evidentiary value in frozen storage and those without evidentiary value as cremated remains, but no written policy and procedure exists. Both unidentified and unclaimed remains must be retained indefinitely by the OCME at its main facility.

- *Code of State Rules §64-84* mentions disposition methods that are not authorized in State Code.
- A legal opinion from the Legislative Services Division states that “there is no statutory authorization or process for the disposition of unidentified remains.”
- Legislation that creates a mechanism and procedure is necessary to allow the OCME to dispose of unidentified remains after a certain time.
- If an unclaimed decedent is cremated, these cremated remains are also stored by the OCME. State Code also does not address the disposition of these remains.
- Common disposition methods include burial in a potter's field, embalming, or other methods after the completion of a final death certificate.
- Table 1 illustrates that some remains have been stored since the 1970s.

Table 1 The Number of Decedent Remains in OCME Custody by Decade that the Death Occurred			
Decade of Death	Cremated Remains	Frozen Storage	Total by Decade
1970s	3	1	4
1980s	1	3	4
1990s	2	6	8
2000s	29	9	38
2010s	92	58*	150
2020s	35	9	44
Total	162	86	248
Source: Census of decedent remains provided by the OCME as of October 11, 2021.			
Note: * One decedent from the 2010s is being held at the request of a prosecuting attorney and is not classified as unidentified or unclaimed.			